

BLP: 106 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTN.: OFFICE OF PETITIONS

Applicants: Juliana H.J. Brooks et al.

Art Unit: 2856

Examiner: Miller, Rose Mary

**Title: Methods for Using Resonant Acoustic and/or Resonant Acousto-EM Energy
to Detect and/or Effect Structures**

Serial No.: 09/786,794

Date Filed: 03/08/2001

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) (Small Entity)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir,

Pursuant to 37 C.F.R. §1.137(b), the undersigned attorney of record petitions the Office of the Deputy Commissioner for Patent Examination Policy in the Office of Petitions to revive an abandoned national (i.e., regular Utility) patent application.

STATEMENT OF FACTS

The above-identified U. S. Application has become abandoned. The Petitioner believes that the grounds for abandonment are failure to prosecute. (See the Notice of Abandonment dated December 13, 2004.) Specifically, the filing of Applicants' Response to Final Action dated November 18, 2004, failed to put the case into condition for allowance. (See the Advisory

Action dated December 8, 2004.) Further, applicants' Notice of Appeal filed on the same date as the Response to the Final Office Action (November 18, 2004) tendered a fee for this Notice of Appeal in the amount of \$150. Unfortunately, this fee corresponded to the old fee schedule in effect prior to October 1, 2004, and the fee in effect at the time was actually \$170 (although Petitioner's commercial software had not yet been updated to reflect this new fee). Since the fee submitted was thus \$20 deficient, the Notice of Appeal was not acceptable (see the Communication re: Appeal dated December 8, 2004), and thus there was no Appeal process in effect when the six-month statutory deadline expired on December 18, 2004, despite Petitioner's best efforts. Thus, the application went abandoned. Accordingly, Applicants hereby petition for revival of the above-identified Application so that prosecution can resume.

Specifically, enclosed please find the following:

- (1) a Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences;
- (2) the required fee in the amount of \$250.00 for submitting a Notice of Appeal;
- (3) a Request for Continued Examination;
- (4) the required fee under 37 CFR 1.17(e) of \$395.00 for submitting a Request for Continued Examination;
- (5) a Preliminary Amendment containing one additional claim, and the fee associated therewith of \$25.00; and
- (6) a petition fee under 37CFR 1.17(m) in the amount of \$750.00.

The total fees due of \$1,420.00 can be found in attached Check # 1025.

Since this Utility Application was filed after June 8, 1995, no terminal disclaimer is required.

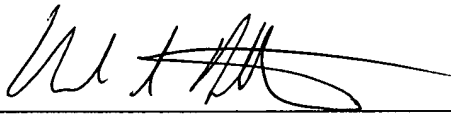
STATEMENT OF PETITIONER

The entire delay in filing this Notice of Appeal and Request for Continued Examination until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Request

In view of the facts set forth above and Petitioner's statement, Applicants respectfully submit that the abandonment of the present application was unintentional, and accordingly respectfully request that the present application be revived to pending status.

Should the Patent Office have any questions or comments concerning this Petition, the Office is invited to telephone the undersigned Petitioner and attorney of record.

A handwritten signature in black ink, appearing to read 'M. G. Mortenson', written over a horizontal line.

Mark G. Mortenson
Reg. No. 31,182

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